

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 3:16-cr-00051-MMD-WGC

Plaintiff,

ORDER

ANTONIO MOGROS,

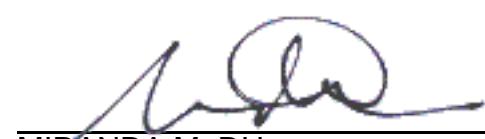
Defendant.

15 In *United States v. Sanchez-Gomez*, the Ninth Circuit Court of Appeals found that
16 “[b]efore a presumptively innocent defendant may be shackled, the court must make an
17 individualized decision that a compelling government purpose would be served and that
18 shackles are the least restrictive means for maintaining security and order in the
19 courtroom.” *United States v. Sanchez-Gomez*, __ F.3d __, 2017 WL 2346995 at *9 (9th
20 Cir. May 31, 2017). The court reasoned that this right “respects our foundational principle
21 that defendants are innocent until proven guilty.” *Id.* Defendant relied on *Sanchez-Gomez*
22 in filing his “Notice of Assertion of Right to be Present in Court Unshackled” (“Notice”).
23 (ECF No. 79.) However, the Ninth Circuit has stayed the issuance of the mandate in
24 *Sanchez-Gomez*. See *United States v. Sanchez-Gomez*, No. 13-50561 (9th Cir. filed June
25 16, 2017) (order granting motion to stay issuance of the mandate). The Court
26 nevertheless agrees with the Ninth Circuit’s reasoning and will implement *Sanchez-*
27 *Gomez*’s direction to courts to “decide whether the stated need for security outweighs the
28 infringement on a defendant’s right.” *Id.* at *13. A minute order will follow on whether

1 Defendant will be placed in restraint during the sentencing hearing scheduled for June
2 29, 2017.

3 The government's motion to strike the Notice (ECF No. 80) is denied. Requiring
4 Defendant to file a motion to be presented in court unshackled would place the burden
5 on a defendant to establish that he should not be shackled and would effectively disregard
6 an individual's constitutional "right to be free from unwarranted restraints." See *id* at *8.
7 However, the Court finds that the Notice goes too far in telling this Court what it "must" do
8 under *Sanchez-Gomez*.

9 DATED THIS 28th day of June 2017.



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11 MIRANDA M. DU
12 UNITED STATES DISTRICT JUDGE
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